

REMARKS

Applicant has carefully reviewed the Office Action mailed December 22, 2009 (hereinafter “Office Action”), and respectfully requests reconsideration of the subject application, particularly in view of the above amendments and the following remarks.

Status of the Claims

Claims 11-18, 31, 32, 34, 35, 37-44, and 50-55 were previously pending. Claims 1-10, 33, 33, and 36 were previously cancelled. Claims 19-30 and 45-49 were previously withdrawn. Claim 56 has been added. Applicant has amended claims 11, 31, 41, and 50 to clarify that the location identifier identifies a local realm. This amendment is supported by at least paragraphs 00126 and 00129 of the subject application. Claim 11 has also been amended to clarify that the selection of the local realm is done by a user. This amendment is supported by at least paragraph 00124 of the subject application. Claims 41 and 50 have been amended to clarify that the password is communicated from the first device. Claim 12 has been amended to reflect the amendments to claim 11, from which it depends. Accordingly, claims 11-18, 31, 32, 34, 35, 37-44, and 50-56 are pending.

Interview Summary

Applicant thanks Examiner Daftuar for the courtesies extended during the telephonic interview on March 16, 2010. The undersigned and the Examiner discussed claim 11, prior to the amendments herein, with regard to Johnson and St. Pierre. The undersigned pointed out what were believed to be key distinctions between Johnson, St. Pierre, and Applicant’s claims, as further discussed herein. No agreement regarding allowability of claims was reached.

Rejection Under 35 U.S.C. § 103(a) – Johnson and St. Pierre

Claims 11-18, 31, 32, 34-44, and 50-55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,456,234 B1 to Johnson (hereinafter “Johnson”) in view of U.S. Patent No. 6,853,841 B1 to St. Pierre (hereinafter “St. Pierre”). Applicant respectfully traverses. When determining whether a claim is obvious, an Examiner must make “a searching comparison of the claimed invention—including all its limitations—with the teaching of the prior art.” *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus,

“obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Moreover, as the Supreme Court recently stated, “*there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*” *KSR Int’l Co. v. Teleflex, Inc.*, 550 U.S. 398, 418, 82 U.S.P.Q.2d (BNA) 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (emphasis added)).

Preliminarily, Applicant notes that claim 36 has been previously cancelled.

Embodiments of Applicant’s invention relate to the use of a first device in proximity to one or more other second devices. A location identifier identifies a local realm of which the one or more second devices is a member. The location identifier is communicated to the first device. A user at the first device selects the location identifier, and a password is transmitted to gain access to the local realm. In return, a list of device identifiers identifying devices that are members of the local realm may be provided to the first device.

At a minimum, Applicant’s invention, as recited in claim 11, requires the identification of a local realm, user selection of the local realm, transmission of a password associated with the local realm, and the receipt of device identifiers after the transmission of the password. As discussed in greater detail herein, neither Johnson nor St. Pierre teaches or suggests:

- 1) the identification by a device of a local realm;
- 2) user selection of the local realm;
- 3) transmission of a password associated with the local realm; or
- 4) a list of device identifiers that is provided after transmission of the password.

The Patent Office concedes that Johnson fails to disclose the identification of a realm (Office Action, page 4). However, the Patent Office asserts that Johnson discloses the selection of a device identifier, and refers to Figures 5A, 5B, and column 12, lines 12-41 of Johnson for support of this contention. The referenced portion of Johnson indicates that a cell controller may drive a plurality of antenna stations, each of which emits a broadcast signal (Johnson, column 12, lines 12-41). Upon receipt of a signal from a single RPDS, the cell controller will select the three antenna stations that received the strongest signal from the RPDS (*Id.*). The cell controller uses triangulation techniques to determine the location of the RPDS (*Id.*). First, Applicant notes that nowhere does Johnson disclose that the cell controller is selecting a local realm, as recited in Applicant’s claim 11. Rather, Johnson selects the antenna stations with the three strongest

signals received from an RPDS. Thus, Johnson is directed at determining the location of an RPDS using triangulation techniques. In contrast, Applicant's claims are directed at selecting a location with which the first device can interact (e.g., a local realm). Applicant submits the two goals (and solutions) are unrelated to one another. Second, as amended, claim 11 recites that the selection of the local realm is based on user input. Nowhere does Johnson teach or suggest that a user enters input to select a particular cell antenna over other cell antennas, or a particular RPDS over other RPDSs.

The Patent Office also asserts that column 14, lines 18-32 of Johnson discloses the use of a password (Office Action, page 4). The referenced portion of Johnson states: "Authorization id field 720 contains a handle to the user who configured the database record 700, for example, a password, user identifier, or the like (may be encrypted)" (Johnson, column 14, lines 18-20). While Applicant concedes that such portion uses the word "password," Applicant does not believe the storage of a password renders obvious Applicant's recited limitation, since Applicant's claims are not directed to storing a password. Rather, Applicant's claim 11 requires that a password 1) be received via user input at 2) the same device (e.g., the first device) that broadcast the signal. Nowhere does Johnson teach or suggest that a user can enter a password at one of the antenna stations (which the Patent Office has analogized to Applicant's broadcast signal), nor does Johnson suggest that a list of device identifiers would be provided in response to entry of such a password, as recited in Applicant's claim 11.

St. Pierre fails to remedy Johnson's deficiencies. Nowhere does St. Pierre teach or suggest the use of a local realm. The Patent Office appears to equate the identification of devices and use of control codes with Applicant's recited "realm" (now "local realm," as amended) (Office Action, page 4). However, the identification of devices cannot render obvious the use of a local realm, because Applicant's claims require both a local realm and the identification of devices. St. Pierre's disclosed control codes are merely the protocol used to talk with the device. The control codes are unrelated to a local realm. Because St. Pierre fails to teach or suggest a local realm, it follows that St. Pierre fails to teach or suggest entry of a password associated with a local realm, or the receipt of a plurality of device identifiers after entry and transmission of the password.

For at least the foregoing reasons, Applicant submits that neither Johnson nor St. Pierre, either alone or in combination, teaches or suggests Applicant's invention as recited in claim 11.

Applicant thus submits that claim 11 is allowable, and respectfully requests that the rejection be withdrawn.

Claim 31 includes similar limitations to those discussed herein with regard to claim 11, and thus should be allowable for at least the same reasons.

Claims 41 and 50 include similar limitations to those discussed herein with regard to claim 11, except do not explicitly require the receipt of a plurality of device identifiers upon transmission of a password. However, for the reasons discussed above with respect to identification of a local realm, user selection of the local realm, and transmission of a password associated with the local realm, Applicant submits claims 41 and 50 are likewise allowable.

New claim 56 recites an additional feature of Applicant's invention wherein the local realm is a wireless local area network. Because neither Johnson nor St. Pierre teaches or suggests use of a location identifier identifying a local realm, Johnson and St. Pierre likewise fail to teach or suggest using a location identifier wherein the local realm is a local area network. Thus, Applicant believes claim 56 is allowable.

Claims 12-18 depend directly or indirectly from claim 11. As such, since claim 11 is allowable, claims 12-18 are also allowable. However, Applicant reserves the right to further address the rejection of claims 12-18 in the future, if needed.

Claims 32, 34, 35, 37-40, 54, and 55 depend directly or indirectly from claim 31. As such, since claim 31 is allowable, claims 32, 34, 35, 37-40, 54, and 55 are also allowable. However, Applicant reserves the right to further address the rejection of claims 32, 34, 35, 37-40, 54, and 55 in the future, if needed.

Claims 42-44 depend directly or indirectly from claim 41. As such, since claim 41 is allowable, claims 42-44 are also allowable. However, Applicant reserves the right to further address the rejection of claims 42-44 in the future, if needed.

Claims 51-53 depend directly or indirectly from claim 50. As such, since claim 50 is allowable, claims 51-53 are also allowable. However, Applicant reserves the right to further address the rejection of claims 51-53 in the future, if needed.

Conclusion

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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By:

A handwritten signature in black ink, appearing to read 'Eric P. Jensen', with a long, sweeping horizontal line extending to the right.

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